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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/766,505

01/28/2004

Jozef Brcka

TAZ-246

3486

37694 7590 03/23/2007

WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)

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CINCINNATI, OH 45202

EXAMINER

ARANCIBIA, MAUREEN GRAMAGLIA

ART UNIT

PAPER NUMBER

1763

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
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3 MONTHS

03/23/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/23/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/766,505

Applicant(s)

BRCKA, JOZEF

Examiner

Maureen G. Arancibia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25 and 26 is/are rejected.
- 7) ☒ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 16 January 2007 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. **Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Specifically, the recitation of "the inductor being adjacent the outside of the dielectric window" is unclear, since a position on the inside of the dielectric window may be considered to be "adjacent" the outside of the window. It is suggested to simply recite "the inductor being outside of the dielectric window" to clarify this matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent Application Publication 2003/0117321 to Furse et al.

In regards to Claim 25, Furse et al. teaches an electrical-circuit inductor (Figure 8), comprising: a conductor formed of a sheet of electrically conductive material (Paragraph 60) in the shape of at least one loop (outer concentric ring in Figure 8) having opposite edges encircling an axis, the sheet having: a gap extending between the opposite edges and defining a pair of terminal ends 16, 18, and a pair of power source connectors, one fixed to each of the terminal ends (shown, for example, in Figures 2A and 3; Paragraph 60); and the opposite edges including an inner edge and an outer edge, each having a plurality of cutouts that require current flowing between the terminal ends to flow around the outside of the cutouts in the inner edge and around the inside of the cutouts in the outer edge, wherein: the cutouts are alternately spaced in the inner and outer opposite edges, the cutouts in the outer edge extend sufficiently radially inward to interrupt the shortest current paths around the outside of the cutouts in the inner edge, the cutouts in the inner edge extend sufficiently radially outward to interrupt the shortest current paths around the inside of the cutouts in the outer edge; the opposite edges thereby define a sinuous serpentine conductive path that alternately curves inwardly around the outside of the cutouts in the inner edge and curves outwardly around the inside of the cutouts in the outer edge, in a plurality of oscillations

between the terminal ends, and the at least one loop includes a series of segments of alternating high and low cross-sections and widths. (Figure 8)

The power source connectors taught by Furse et al. would be structurally capable of being connected to any type of power source, including an RF power source. It has been held that claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). Also, a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987)

Furse et al. teaches that the electrical-circuit inductor (Paragraph 59) may be used in an industrial plasma environment. (Paragraphs 106-109) Thus, the electrical-circuit inductor is capable of performing the intended use recited in the preamble of being used for an inductively-coupled plasma source, such as an ICP apparatus, in that it can be deployed inside of such an apparatus for monitoring the plasma conditions. It has been held that if a prior art structure is capable of performing the intended use as recited in the preamble, then the preamble does not define over it. *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997)

Allowable Subject Matter

6. Claim 26 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The cited prior art of record, whether alone or in combination, fails to teach or fairly suggest, in the context of the claims, placing an inductor having the structural limitations of Claim 25 *outside* of a dielectric window forming part of a vacuum chamber wall to form part of an ICP source or processing apparatus. The closest prior art of record, Furse et al., teaches that an inductor can be placed *inside* a plasma processing environment to monitor the conditions of the plasma (Paragraphs 106-109), but fails to teach or fairly suggest placing such an inductor *outside* of a dielectric window forming part of a vacuum chamber wall to form part of an ICP source or processing apparatus.

Response to Arguments

9. Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

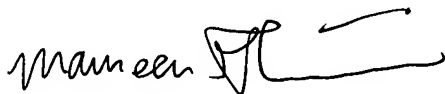
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen G. Arancibia whose telephone number is (571)

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272-1219. The examiner can normally be reached on core hours of 10-5, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on (571) 272-1435. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Maureen G. Arancibia
Patent Examiner
Art Unit 1763



Parviz Hassanzadeh
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